

(c) Upon the request of the Commission, each Federal agency is authorized and directed to make its services, equipment, personnel, facilities, and information available to the greatest practicable extent to the Commission in the execution of its functions.

(d) A simple majority of the membership then serving shall constitute a quorum for the conduct of business. Other than for the promulgation of guidelines and policy statements pursuant to section 994, the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the members present.

(e) Except as otherwise provided by law, the Commission shall maintain and make available for public inspection a record of the final vote of each member on any action taken by it.

(Added Pub. L. 98-473, title II, §217(a), Oct. 12, 1984, 98 Stat. 2024; amended Pub. L. 100-690, title VII, §§7104, 7105, 7106(b), Nov. 18, 1988, 102 Stat. 4418; Pub. L. 101-650, title III, §325(b)(5), Dec. 1, 1990, 104 Stat. 5121; Pub. L. 103-322, title XXVIII, §280005(c)(1), Sept. 13, 1994, 108 Stat. 2097.)

REFERENCES IN TEXT

The provisions of title 28, United States Code, with respect to tort claims, referred to in subsec. (a)(7), are classified generally to section 1346(b) and chapter 171 (§2671 et seq.) of this title.

AMENDMENTS

1994—Subsec. (a)(3). Pub. L. 103-322 substituted “Chair” for “Chairman”.

1990—Subsec. (a)(22). Pub. L. 101-650 struck out “and” after semicolon at end.

1988—Subsec. (a)(2). Pub. L. 100-690, §7105, substituted “Level 6 of the Senior Executive Service Schedule (5 U.S.C. 5382)” for “grade 18 of the General Schedule pay rates (5 U.S.C. 5332)”.

Subsec. (a)(23). Pub. L. 100-690, §7104, added par. (23).
Subsec. (a)(24). Pub. L. 100-690, §7106(b), added par. (24).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 998 of this title.

§ 996. Director and staff

(a) The Staff Director shall supervise the activities of persons employed by the Commission and perform other duties assigned to the Staff Director by the Commission.

(b) The Staff Director shall, subject to the approval of the Commission, appoint such officers and employees as are necessary in the execution of the functions of the Commission. The officers and employees of the Commission shall be exempt from the provisions of part III of title 5, United States Code, except the following chapters: 45 (Incentive Awards), 81 (Compensation for Work Injuries), 83 (Retirement), 85 (Unemployment Compensation), 87 (Life Insurance), and 89 (Health Insurance).

(Added Pub. L. 98-473, title II, §217(a), Oct. 12, 1984, 98 Stat. 2026; amended Pub. L. 100-690, title VII, §7106(c), Nov. 18, 1988, 102 Stat. 4418; Pub. L. 101-650, title III, §325(b)(6), Dec. 1, 1990, 104 Stat. 5121; Pub. L. 103-322, title XXVIII, §280005(c)(5), Sept. 13, 1994, 108 Stat. 2097.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-322 substituted “the Staff Director” for “him” after “assigned to”.

1990—Subsec. (b). Pub. L. 101-650 substituted “and 89 (Health Insurance)” for “89 (Health Insurance), and 91 (Conflicts of Interest)”.

1988—Subsec. (b). Pub. L. 100-690 inserted reference to chapter 45 (Incentive Awards).

§ 997. Annual report

The Commission shall report annually to the Judicial Conference of the United States, the Congress, and the President of the United States on the activities of the Commission.

(Added Pub. L. 98-473, title II, §217(a), Oct. 12, 1984, 98 Stat. 2026.)

§ 998. Definitions

As used in this chapter—

(a) “Commission” means the United States Sentencing Commission;

(b) “Commissioner” means a member of the United States Sentencing Commission;

(c) “guidelines” means the guidelines promulgated by the Commission pursuant to section 994(a) of this title; and

(d) “rules and regulations” means rules and regulations promulgated by the Commission pursuant to section 995 of this title.

(Added Pub. L. 98-473, title II, §217(a), Oct. 12, 1984, 98 Stat. 2026.)

PART IV—JURISDICTION AND VENUE

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AMENDMENTS

1992—Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516, substituted “United States Court of Federal Claims” for “United States Claims Court” as item for chapter 91.

1982—Pub. L. 97-164, title I, §§133(j)(1), 134, title III, §301(b), Apr. 2, 1982, 96 Stat. 41, 55, substituted “United States Claims Court” for “Court of Claims” in item for chapter 91, struck out item for chapter 93 “Court of Customs and Patent Appeals”, and added item for chapter 99.

1980—Pub. L. 96-417, title V, §501(20), Oct. 10, 1980, 94 Stat. 1742, substituted “Court of International Trade” for “Customs Court” in item for chapter 95.

1978—Pub. L. 95-598, title II, §241(b), Nov. 6, 1978, 92 Stat. 2671, directed the addition of item for chapter 90, “District Courts and Bankruptcy Courts”, which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1976—Pub. L. 94-583, §4(b), Oct. 21, 1976, 90 Stat. 2897, added item for chapter 97.

¹ So in original. Probably should be “1330”.

CROSS REFERENCES

District of Columbia courts, jurisdiction, see Title 11 of District of Columbia Code.

Judicial power of the United States, see Const. Art. 3, §§ 1, 2, and U.S. Const. Amend. 11.

Tax Court jurisdiction, see section 7441 et seq. of Title 26, Internal Revenue Code.

CHAPTER 81—SUPREME COURT

- Sec.
1251. Original jurisdiction.
[1252. Repealed.]
1253. Direct appeals from decisions of three-judge courts.
1254. Courts of appeals; certiorari; certified questions.
[1255, 1256. Repealed.]
1257. State courts; certiorari.
1258. Supreme Court of Puerto Rico; certiorari.
1259. Court of Appeals for the Armed Forces; certiorari.

AMENDMENTS

1994—Pub. L. 103-337, div. A, title IX, § 924(d)(2)(B), Oct. 5, 1994, 108 Stat. 2832, substituted “Court of Appeals for the Armed Forces” for “Court of Military Appeals” in item 1259.

1988—Pub. L. 100-352, §§ 1, 2(c), 5(a), June 27, 1988, 102 Stat. 662, 663, struck out item 1252 “Direct appeals from decisions invalidating Acts of Congress”, struck out “appeal;” after “certiorari;” in item 1254, and struck out “appeal;” after “State courts;” in item 1257 and after “of Puerto Rico;” in item 1258.

1983—Pub. L. 98-209, § 10(a)(2), Dec. 6, 1983, 97 Stat. 1406, added item 1259.

1982—Pub. L. 97-164, title I, § 123, Apr. 2, 1982, 96 Stat. 36, struck out item 1255 “Court of Claims; certiorari; certified questions” and item 1256 “Court of Customs and Patent Appeals; certiorari”.

1961—Pub. L. 87-189, § 2, Aug. 30, 1961, 75 Stat. 417, added item 1258.

DEFINITIONS OF COURTS AND JUDGES

Section 32 of act June 25, 1948, as amended by act May 24, 1949, ch. 139, § 127, 63 Stat. 107, provided:

“(a) All laws of the United States in force on September 1, 1948, in which reference is made to a ‘circuit court of appeals’; ‘senior circuit judge’; ‘senior district judge’; ‘presiding judge’; ‘chief justice’, except when reference to the Chief Justice of the United States is intended; or ‘justice’, except when used with respect to a justice of the Supreme Court of the United States in his capacity as such or as a circuit justice, are hereby amended by substituting ‘court of appeals’ for ‘circuit court of appeals’; ‘chief judge of the circuit’ for ‘senior circuit judge’; ‘chief judge of the district court’ for ‘senior district judge’; ‘chief judge’ for ‘presiding judge’; ‘chief judge’ for ‘chief justice’, except when reference to the Chief Justice of the United States is intended; and ‘judge’ for ‘justice’, except when the latter term is used with respect to a justice of the Supreme Court of the United States in his capacity as such or as a circuit justice.

“(b) All laws of the United States in force on September 1, 1948, in which reference is made to the Supreme Court of the District of Columbia or to the District Court of the United States for the District of Columbia are amended by substituting ‘United States District Court for the District of Columbia’ for such designations.

“(c) All laws of the United States in force on September 1, 1948, in which reference is made to the ‘Conference of Senior Circuit Judges’, or to the ‘Judicial Conference of Senior Circuit Judges’ are amended by substituting ‘Judicial Conference of the United States’ for such designations.

“(d) This section shall not be construed to amend historical references to courts or judicial offices which

have no present or future application to such courts or offices.”

RULES OF THE SUPREME COURT

Procedure generally, on appeal to or in Supreme Court, see Appendix to this title.

FEDERAL RULES OF CRIMINAL PROCEDURE

Bail upon review, see rule 46, Title 18, Appendix, Crimes and Criminal Procedure.

Stay of execution, and relief pending review, see rule 38.

CROSS REFERENCES

Procedure and particular proceedings, generally, see sections 1651 et seq. and 2201 et seq. of this title.

§ 1251. Original jurisdiction

(a) The Supreme Court shall have original and exclusive jurisdiction of all controversies between two or more States.

(b) The Supreme Court shall have original but not exclusive jurisdiction of:

(1) All actions or proceedings to which ambassadors, other public ministers, consuls, or vice consuls of foreign states are parties;

(2) All controversies between the United States and a State;

(3) All actions or proceedings by a State against the citizens of another State or against aliens.

(June 25, 1948, ch. 646, 62 Stat. 927; Sept. 30, 1978, Pub. L. 95-393, § 8(b), 92 Stat. 810.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 341, 371(7), (8) (Mar. 3, 1911, ch. 231, §§ 233, 256, 36 Stat. 1156, 1160; Oct. 6, 1917, ch. 97, § 2, 40 Stat. 395; June 10, 1922, ch. 216, § 2, 42 Stat. 635).

This section reconciles provisions of sections 341 and 371(7), (8) of title 28, U.S.C., 1940 ed., with Article 3, section 2 and Amendment 11 of the Constitution.

Sections 341 and 371 of title 28, U.S.C., 1940 ed., were not wholly consistent with such constitutional provisions. Said section 341 provided that the Supreme Court should have original jurisdiction of controversies between a State and citizens of other States or aliens, whereas the 11th Amendment prohibits an action in any Federal Court against a State by citizens of another State or aliens.

The original jurisdiction conferred on the Supreme Court by Article 3, section 2, of the Constitution is not exclusive by virtue of that provision alone. Congress may provide for or deny exclusiveness. *Ames v. Kansas*, 1884, 4 S.Ct. 437, 111 U.S. 449, 28 L.Ed. 442; *U.S. v. 4,450.72 Acres of Land, Clearwater County, State of Minnesota*, D.C. Minn., 1939, 27 F.Supp. 167, affirmed 125 F.2d 636.

Sections 341 and 371 of title 28, U.S.C., 1940 ed., did not confer expressly exclusive jurisdiction on the Supreme Court in civil cases between States, *Louisiana v. Texas*, 1899, 20 S.Ct. 251, 176 U.S. 1, 44 L.Ed. 347, as has been provided in subsection (a)(1) of the revised section. The language at the beginning of said section 341, for which said subsection has been substituted, was ambiguous and made it appear that an action by a State against the United States would be within the exclusive jurisdiction of the Supreme Court. However, in *U.S. v. Louisiana*, 1887, 8 S.Ct. 17, 123 U.S. 32, 31 L.Ed. 69, the Supreme Court, in a case appealed from the Court of Claims, held to the contrary.

So, also, in actions by the United States to condemn lands of a State or to enforce penalties for violation of a Federal statute against a State-owned utility, the United States district courts have jurisdiction. See *United States v. State of Utah*, 1931, 51 S.Ct. 438, 283 U.S. 64, 75 L.Ed. 844; *United States v. 4,450.72 Acres of Land*,